

REMARKS

The specification is amended to insert a sequence identifier and to correct a figure identifier. The specification is further corrected and a Sequence Listing is herein submitted to comply with the requirements of an application containing a nucleotide and/or amino acid sequence 37 C.F.R. §§ 1.821 - 1.825.

Hereto is an attached Sequence Listing in paper and computer readable format. The paper copy and computer readable copy of the Sequence Listing are the same. The Sequence Listing does not include new matter for at least the following reasons that the replacement sheet of Fig. 6, which represents SEQ ID NO:1, does not contain new matter.

Fig. 6 is amended to correct an erroneous nucleotide “e” at position 1869 in the sequence of Fig. 6. Applicants respectfully submit that such amendment is not new matter because one of ordinary skill in the art would be able to determine that the “e” at nucleotide 1869 in Fig. 6 is supposed to be a “c” based on the disclosure in paragraphs 42 - 44 of the specification, including the therein referenced accession number AJ459240, and Fig. 4.

In particular, Fig. 6 sets out the entire 4.5 kb *Bam*HI fragment plus the sequence of the apramycin resistance cassette inserted within the *mtmW* gene as illustrated in Fig. 4. As the specification explains, the *mtmW* gene is 981 nucleotides with a GTG start codon and a TAG stop codon. Also, an apramycin resistance cassette containing the *aac(3)IV* gene was subcloned as a 1.5kb *Sma*I-*Eco*RV fragment into the unique *Bg*III site (blunt-ended) located within the coding region for *mtmW* and oriented in the direction of transcription of *mtmW*. From this information, one of ordinary skill in the art would be able to determine that the *mtmW* gene starts at the 1489 position in Fig. 6 (GTG) and is interrupted starting at nucleotide 2104 by the sequence of the apramycin resistance *aac(3)IV* gene. This first portion of the *mtmW* gene contains the erroneous “e” at nucleotide 1869, otherwise at nucleotide 381 from the start of the *mtmW* gene (including the GTG start codon).

Using the deposited *mtmW* gene (accession number AJ459240), one of ordinary skill in the art would then be able to compare this first portion of the *mtmW* gene of Fig. 6 to the deposited gene to determine that the erroneous “e” should be a “c”. The deposited *mtmW* gene starts at nucleotide 74 and ends at nucleotide 1054. Therefore, the 454th nucleotide of deposited *mtmW* gene (i.e., a “c”) corresponds to nucleotide 1869 of Fig. 6 (otherwise 381 nucleotides

from the start codon (GTG) including the start codon). Inasmuch, Applicants respectfully submit that no new matter has been submitted resulting from the amendment to Fig. 6.

CONCLUSION

Entry of the Sequence Listing and the replacement sheet, amendments to the specification and favorable consideration are respectfully requested.

To the extent necessary, please grant any extension of time deemed necessary for entry of this communication. Please charge any deficient fees, or credit any overpayment of fees, to Deposit Account 500417.

Respectfully submitted,

MCDERMOTT, WILL & EMERY LLP

Date:

Sept. 15, 2004

By:

For:



Kelli N. Watson

Registration No. 47,170

600 Thirteenth Street, N.W.
Washington, D.C. 20005-3096
(202) 756-8351 (Direct)
(202) 756-8087 (Facsimile)

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AMENDMENTS TO THE DRAWINGS

The attached replacement sheet of drawings includes changes to Fig. 6. This replacement sheet, which includes Fig. 6, replaces the original sheet including Fig. 6. In Fig. 6, the “e” at nucleotide 1869 has been replaced with a “c”.

Attachments: Replacement sheet of Fig. 6

Annotated sheet of Fig. 6